

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

CODRUT RADU RADULESCU  
Codrut Radu Radulescu Attorney At Law  
West Orange, New Jersey 07052  
Voice 973 536 2608

SYNC LABS LLC AND

CODRUT RADU RADULESCU ,

PLAINTIFFS,

V.

FUSION-MANUFACTURING AND

MICHAEL FERCHAK,

DEFENDANTS

HON. MADELINE COX ARLEO

CIV. ACTION NO. 11-CV-03671

(WHW)(MCA)

**DECLARATION OF COUNSEL IN  
SUPPORT OF PLAINTIFF  
OPPOSITION TO DEFENDANTS'  
MOTION TO DISQUALIFY  
ATTORNEY CODRUT RADU  
RADULESCU AS COUNSEL FOR  
PLAINTIFF SYNC LABS LLC**

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I am an attorney at law of the state of New Jersey and I have a solo practice.

This declaration is respectfully submitted in support of Plaintiffs opposition to the motion to disqualify the pro se Plaintiff Codrut Radu Radulescu from representing the co plaintiff Sync Labs LLC which is owned and operated by Plaintiff Codrut Radu Radulescu.

1. Plaintiff Sync Labs, LLC (“LLC”) is a New Jersey company located at 105 Lock St. Ste. 211, Newark, NJ 07103.
2. Plaintiff Codrut Radu Radu (“Radu”) is the owner the LLC and controls all the voting rights and about 96.5% of the profit rights of the LLC.
3. Defendant Fusion-Manufacturing ( “Fusion”)is a LLC company registered in Florida at 1322 S.E. 17th St., Ft. Lauderdale, FL 33316.
4. Defendant Ferchak is a Florida citizen with his residence at 1251 Buchanan St., Hollywood, Florida, 33019
5. Ferchak is the sole proprietor of Fusion.
6. Radu and Ferchak (“Ferchak”) became friends in 2004.
7. Radu gave Fusion and Ferchak several manufacturing contracts on behalf of his employer a multinational telecom corporation.
8. At the time Ferchak was spending most of his time overseas, mainly in China
9. On July 31, 2007, Radu founded and began operating Sync Labs LLC, which was initially named Phoenix Labs LLC, a single-owner New Jersey LLC.
10. On or about January 2008, Ferchak start working for Phoenix Labs LLC as a Vice President of Operations.
11. Almost all communication between Radu and Ferchak was in writing through email, or instant messaging.
12. Company documents were stored in Ferchak’s MAC Internet storage account for backup and protection.
13. During 2008 and 2009 period Ferchak wrote several solicitations, the company business

plan and the business strategy to commercialize Intellectual Property through royalties and licensing.

14. Because Radu is not a native English speaker all documents produced by Radu were reviewed and edited by Ferchak.

15. Ferchak studied the market potential and looked for investors.

16. Ferchak had unlimited access to and controlled the computer, network and Internet resources of the LLC.

17. On January 2, 2009 Ferchak wrote and signed a promise to invest in the LLC by matching the Edison Grant funds which was awarded by the NJ Commission on Science and Techonoly.

18. On July 2, 2009, Ferchak wrote and signed a renewed funding agreement (“Funding Agreement”) for \$250,000 .

19. In August of 2009, Ferchak rewrote the Business Plan of the LLC.

20. Ferchak wrote in the business plan that “funding of \$250,000 has been pledged by a private investor.” which re-affirmed his commitment to invest in the LLC

21. Additionally in August of 2009, Ferchak invested \$20,000 in the LLC.

22. In November of 2009, Sync Labs was awarded a \$250,000 Edison Grant by the New Jersey Commission for Science and Technology.

23. On November 24, 2009 Ferchak filled the state form for including him as owner of the LLC.

24. On December 21, 2009, Ferchak threatened Radu that if he doesn’t get substantially more interest in the company Ferchak would cut funding and Radu would lose the grant.

25. On April 1, 2010, Ferchak resigned from Sync Labs as the VP of Operations.

26. On May 30, 2010 Ferchak accessed without permission the Sync Labs LLC Internet account, change access passwords and took control over company email and web site.
27. In June 2010 Ferchak and Radu agreed to a \$7 price per unit of profit interest and Radu renewed his request for the investment.
28. Ferchak refused to provide the necessary cash to continue the Grant contractual obligations and denied he has any duty to invest.
29. Radu significantly increased his personal debt to be able to cover the LLC contractual obligations.
30. On May 31, 2011 Radu, represented by lawyer filed a Complaint in NJ State court on behalf of himself and the LLC against Ferchak and Fusion.
31. Defendants retained attorney Chris Hager ( "Hager") for representation.
32. Hager removed the action based on diversity.
33. On Sep 7, 2011 Defendants filed answer the complaint and counterclaim.
34. On Sep 28, 2011 Plaintiffs filed Amended Complaint
35. Plaintiffs submit the first set of interrogatories
36. On Nov 15 Plaintiffs sent through their attorney first set of request to produce documents.
37. Mr. Hager requested to remove contention interrogatories claiming they are not compliant with RPC
38. On Dec 28, 2011 Radu attended a scheduled discover conference call in which both Plaintiff attorney and Chris Hager, Defendants attorney participated.
39. During the conference of Dec 28, 2011 Chris Hager, denied he will answer any interrogatory that is requesting an explanation of legal basis of Defendant's counterclaims on the basis that the client will sign the interrogatories and therefore

because the client is not a lawyer there is no knowledge of the legal basis to be produced.

40. On Jan 26, 2012 Defendants filed Amended Counterclaim

41. On Feb 29, 2012 Radu requested opposing counsel for the production of documents requested on Nov 15, 2011.

42. Answering the request, Chris Hager, Defendants' attorney declared that there are no other documents to be produced.

Plaintiffs respectfully request that Defendants' motion to disqualify attorney Codrut Radu Radulescu as attorney for the Plaintiff Sync Labs LLC be denied for the reasons stated in our Legal Argument.

I hereby declare under penalty of perjury under the laws of the United States of America that foregoing is true and correct

Codrut Radu Radulescu

Attorney for Plaintiff Sync Labs LLC.

By: s/ Codrut Radu Radulescu

Dated May 2, 2012

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**Plaintiff Exhibits**  
**Set A**

## PE1

### RPC 1.7. Conflict of Interest: General Rule

- **(a)** Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
  - **(1)** the representation of one client will be directly adverse to another client; or
  - **(2)** there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.
- **(b)** Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
  - **(1)** each affected client gives informed consent, confirmed in writing, after full disclosure and consultation, provided, however, that a public entity cannot consent to any such representation. When the lawyer represents multiple clients in a single matter, the consultation shall include an explanation of the common representation and the advantages and risks involved;
  - **(2)** the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
  - **(3)** the representation is not prohibited by law; and
  - **(4)** the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

*Note: Adopted July 12, 1984 to be effective September 10, 1984; text*

*deleted and new text adopted November 17, 2003 to be effective January 1, 2004.*



**RPC 1.8. Conflict of Interest: Current Clients; Specific Rules**

- **(a)** A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
  - **(1)** the transaction and terms in which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be understood by the client;
  - **(2)** the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel of the client's choice concerning the transaction; and
  - **(3)** the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.
- **(b)** Except as permitted or required by these rules, a lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client after full disclosure and consultation, gives informed consent.
- **(c)** A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent, or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.
- **(d)** Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.
- **(e)** A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:
  - **(1)** a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and
  - **(2)** a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client; and

- **(3)** a non-profit organization authorized under R. 1:21-1(e) may provide financial assistance to indigent clients whom it is representing without fee.
- **(f)** A lawyer shall not accept compensation for representing a client from one other than the client unless:
  - **(1)** the client gives informed consent;
  - **(2)** there is no interference with the lawyer's independence of professional judgment or with the lawyer-client relationship; and
  - **(3)** information relating to representation of a client is protected as required by RPC 1.6.
- **(g)** A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or no contest pleas, unless each client gives informed consent after a consultation that shall include disclosure of the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.
- **(h)** A lawyer shall not:
  - **(1)** make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client fails to act in accordance with the lawyer's advice and the lawyer nevertheless continues to represent the client at the client's request. Notwithstanding the existence of those two conditions, the lawyer shall not make such an agreement unless permitted by law and the client is independently represented in making the agreement; or
  - **(2)** settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.
- **(i)** A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may: (1) acquire a lien granted by law to secure the lawyer's fee or expenses, (2) contract with a client for a reasonable contingent fee in a civil case.
- **(j)** While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.
- **(k)** A lawyer employed by a public entity, either as a lawyer or in some other role, shall not undertake the representation of another client if the representation presents a substantial risk that the lawyer's responsibilities to the public entity would limit the lawyer's ability to

provide independent advice or diligent and competent representation to either the public entity or the client.

- **(I)** A public entity cannot consent to a representation otherwise prohibited by this Rule.

*Note: Adopted September 10, 1984 to be effective immediately; paragraph (e) amended July 12, 2002 to be effective September 3, 2002; caption amended, paragraphs (a), (b), (c), (f), (g), (h) amended, former paragraph (i) deleted, former paragraph (j) redesignated as paragraph (i), former paragraph (k) deleted, and new paragraphs (j) , (k) and (l) added November 17, 2003 to be effective January 1, 2004.*

### **RPC 3.7. Lawyer as Witness**

- **(a)** A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:
  - **(1)** the testimony relates to an uncontested issue;
  - **(2)** the testimony relates to the nature and value of legal services rendered in the case; or
  - **(3)** disqualification of the lawyer would work substantial hardship on the client.
- **(b)** A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by RPC 1.7 or RPC 1.9.

*Note: Adopted July 12, 1984 to be effective September 10, 1984; paragraph (a) amended November 17, 2003 to be effective January 1, 2004.*

<http://www.judiciary.state.nj.us/rules/apprpc.htm#x3dot7>

**PE2**

**99 N.J.L.J. 665**

**July 29, 1976**

**ADVISORY COMMITTEE ON PROFESSIONAL ETHICS**

**Appointed by the New Jersey Supreme Court**

**OPINION 343**

**Conflict of Interest**

**Attorney Defending Himself  
in Rent Action by Former Client**

An attorney and his wife leased an apartment in a complex which his law firm and he represented in approximately twenty eviction cases. When the landlord recently gave notice of a rent increase on the attorney's apartment, the attorney determined that the method of establishing the increase as well as its amount was contrary to law and refused to pay the increase. The owner of the apartment complex retained other attorneys who instituted suit against the attorney and his wife for the increase plus late charges. An answer was filed in behalf of the defendants by one of the members of his law firm. The plaintiff's attorney challenged the propriety of the representation since the defendant and his law firm had previously represented the complex. The defendant attorney's law firm withdrew as counsel, substituting the defendant as attorney *pro se* for himself and his wife. Plaintiff's attorney is now contending that DR 5-101 and DR 6-102 forbid the defendant attorney firm representing his wife and himself *pro se*. The defendant is of the opinion that DR 6-101(B)(4) permits him to represent himself and his wife because of the hardship to which he would be put if he were required to refer the case to another counsel who had a background in landlord and tenant law as extensive as his own, and the expense of paying such an attorney would further increase the hardship "since the amount in controversy is only \$55."

The specific question is whether an attorney who, together with his wife, is sued by a former client may represent himself and his wife in the action, or must he retain independent counsel. Though our spirits are deflated by the amount in controversy, we conceive no ethical consideration which would prevent the attorney from representing himself and his wife under the circumstances. He has the same fundamental rights in this respect as any other individual.

\* \* \*

## PE3

99 *N.J.L.J.* 862

September 23, 1976

### ADVISORY COMMITTEE ON PROFESSIONAL ETHICS

Appointed by the New Jersey Supreme Court

#### OPINION 353

##### Conflict of Interest

##### Waiver by Public Body

An attorney for a municipal planning board asks whether he may advise the board on a matter in which he may have a financial, property or personal interest within the purview of DR 5-101(A). He apparently has the consent of the applicant to the planning board and the board itself, both being fully acquainted with the circumstances of the attorney's interest. He asks whether such consent would cure the defect as provided in DR 5-101(A).

The inquirer is acquainted with the rule stated repeatedly by this Committee (*see* Opinions 4, 86 *N.J.L.J.* 357 (1963); 187, 93 *N.J.L.J.* 649 (1970); and 208, 94 *N.J.L.J.* 454 (1971), *inter alia*) that consent of a public body is unavailable to cure a conflict which arises out of the interests of two opposing parties. His inquiry is whether that same rule applies where the conflict arises between the attorney's own personal interest and the public interest. The answer is that it does.

Where the public interest is involved, an attorney may not represent conflicting interests, even with the consent of all concerned. *See Ahto vs. Weaver*, 39 *N.J.* 418 (1963), cited in *Schear v. Elizabeth*, 41 *N.J.* 321 (1964). In the latter case, the Court discussed that statutory provision of *N.J.S.A.* 40:55-1.4, specifically requiring that "[n]o member of the planning board shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest." The Court stated that the rule must be applied to the facts, of a particular case, with a sensitive regard to the public interest, and that where the duties of a public office call for services of an attorney, possible areas of conflict are subjected to even closer scrutiny and more stringent limitation.

There is no reason in this case to depart from the general rule that the consent of the parties, which would be available to cure a conflict within the meaning of DR 5-101(A) as to private parties, is unavailable where the consent required is that of a public body. The inquirer should not advise the planning board in a matter as to which he has a personal, financial, business, or property interest.

\* \* \*

## PE4

122 N.J.L.J. 1226

November 10, 1988

### ADVISORY COMMITTEE ON PROFESSIONAL ETHICS

Appointed by the Supreme Court of New Jersey

#### OPINION 617

#### **Representation of Estate in Wrongful Death Action Where Partner is "Of Counsel" to Firm Representing Another Part**

The administrators of the estates of A and B jointly sued several defendants for the wrongful deaths of their respective decedents. One defendant counterclaimed against the estate of B, contending that B's own actions contributed to the deaths of both A and B. The counterclaim thus pinpointed a potential conflict between A and B.

Until the counterclaim was filed, both estates were represented by the same law firm, X. After the counterclaim was filed, the inquirer, then a sole practitioner, undertook representation of the estate of B from law firm X, which continued to represent the estate of A. Thereafter, the inquirer became associated with Attorney Z, who had been a partner in [the] law firm X when the litigation was begun and, apparently, remains of counsel to law firm X, even though Z has established his own firm, with which the inquirer is now associated.

The inquirer asks four questions:

1. Can he continue to represent the estate of B?
2. If the answer to the first inquiry is negative, can he continue to represent the estate of B if all parties consent to his representation, after full disclosure of the facts?
3. Can law firm X resume representation of the estate of A and B?
4. Finally, can the law firm X resume representation of the estate of B?

The answers to all four questions are in the negative. The inquirer may not continue to represent the estate of B. Similar inquiries have been raised, *inter alia*, in Opinions 43, 128, 135, 313, and consistently rejected. Even in the face of *Dewey v. R. J. Reynolds Tobacco Co.*, 109 N.J. 201 (1988), there are certain situations in which informed consent is immaterial and ineffective. See RPC 1.7(c) and 1.9(b). Attorney Z, by virtue of his former partnership and continued association with law firm X, represented- and indeed, continues to represent - the estate of A, which is in a conflicting position with the estate of B, based on the contributory negligence counterclaim filed against the estate of B. Z's present equivocal status with law firm X does not erase the conflict with the estate of B. See Opinion 135.

Even though RPC 1.9 does not require a mandatory disqualification as was formerly required by DR 5-105(D), *see Dewey v. R. J. Reynolds Tobacco Co.*, *supra* at 215, the provisions of RPC 1.9(a)(1) do not apply here. Not only is the appearance of impropriety manifest after making the appropriate factual inquiry, as required in *Dewey*, at 214-216, but also, the interests of the estate of B are clearly and materially adversely to the interest of the estate of A.

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Prior opinions and RPC 1.7(c)(1) confirm that there are certain situations in which a conflict cannot be erased by full disclosure to and consent of both estates under DR 5-105(C), now superseded by RPC 1.7(b)(2). Opinions 57, 135, and 304 underscore the patent conflict interest present in the situation the inquirer poses. In Opinion 135, a widow sued the estate of her husband. The same attorney who had represented the widow on behalf of her husband's estate, thereafter sought to represent the widow against the estate. This would have put the attorney in the position of having once contended the deceased husband was not negligent, and subsequently contending he was negligent. Opinion 135 found that, in these circumstances, no valid consent was possible. In Opinion 304, it became evident to the inquiring law firm that controversies existed among various relatives of the decedent, all of whom were clients of the law firm in various capacities. Even though each relative had consented to representation of the other, each relative relied upon the firm for protection against the interest of the others. This irreconcilable conflict of interest compelled withdrawal of the law firm from all representation.

This inquiry presents a parallel situation: The estate of A can claim against the estate of B on a negligence theory, just as one party to the suit has already claimed. That party's claim produced the clear conflict that caused law firm X to withdraw from representation of B, and now, that conflict and the imputed knowledge of the underlying facts carries through to the inquirer through attorney Z. This situation is governed by RPC 1.7(c) and is, therefore, not susceptible of an informed consent under RPC 1.7(a) or (b).

The answer to the final question is likewise negative: The same directly adverse interests which caused law firm X to decline continued representation of the estate of B in the first instance continue unabated.

\* \* \*



## PE5

> From: Radu Radulescu [<mailto:radu@synclabs.com>]  
> Sent: Wednesday, February 29, 2012 4:56 PM  
> To: [chager@n-blaw.com](mailto:chager@n-blaw.com); [mmachette@n-blaw.com](mailto:mmachette@n-blaw.com)  
> Subject: Document request Fwd: Sync Labs v. Fusion-Manufacturing  
>  
> Dear Chris,  
>  
>       Following our discussion of one hour ago when you stated that  
you forwarded to Ed Zohn all the documents responding to the request below I  
am kindly asking that you email me the same.  
>       Additionally I would like to ask you to consent to exchange  
electronically all the information concerning this case.  
>  
> Regards,  
>  
>  
>  
> Codrut Radu Radulescu (Radu), Esq  
> Admitted to practice in NY and NJ  
>  
> CEO Sync Labs LLC  
> 105 Lock St, Suite 211  
> NJIT EDC Business Incubator  
> Newark , NJ 07103  
> mobile phone: 201 264 8046  
> IP phone: 973 536 2608  
>  
> This message contains private and confidential information, intended only  
for the person(s) named above. If the reader of this message is not the  
intended recipient, you are hereby notified that any dissemination  
distribution of copying of this communication is strictly prohibited. You  
should delete this message and kindly notify the sender via reply e-mail.  
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## PE6

1. Collections-1.pdf
2. Collections-2.pdf
3. Collections-3.pdf
4. Collections-4.pdf
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34. Collections-34.pdf
35. Collections-35.pdf
36. Collections.pdf
37. E1 01.2009 Ferchak\_fund-matching\_edison .pdf
38. E2 Ferchak Funding Agreement.pdf
39. E4 20k investment receipt\_signed.jpg
40. E6 Profit Interest Ledger v17 Split feb 16, 2011.xlsx.pdf
41. E7 Edison grant award letter 2009 250k.jpg
42. E8 Work Statement V2 Phoenix Labs LLC.docx
43. E9 Ferchak work 4 hire sighed.pdf
44. E11 MF email to jumpstart.rtf
45. E12 Offer to MF at \$5 per share.rtf
46. E13 my \$150K investment.rtf
47. E14 Re\_ my \$150K investment.rtf
48. E15 Re\_ my \$150K investment.rtf
49. E15 Re\_ tech startup valuation.rtf
50. E16 Re\_ tech startup valuation.rtf
51. E17 Re\_ tech startup valuation.rtf
52. E18 thoughts.rtf
53. E19 Re\_ tech startup valuation.rtf
54. E20 Re\_ tech startup valuation.rtf
55. E21 Re\_ A B C Units Profit Interest.rtf
56. E22 More DCF .rtfd
57. E23 Re\_ small changes.rtf
58. E24 Domain Name Re\_ further....rtf
59. E25 Funding request.rtf
60. E26 Michael web lock Fwd\_ availability.rtf
61. E27 Accredited Investor plus web control Re\_ availability.rtf
62. E28 Re\_ Resend\_ Overdue Invoices.rtf
63. E29 Re\_ Resend\_ Overdue Invoices.rtf
64. E30 Re\_ Resend\_ Overdue Invoices.rtf
65. E31 Re\_ Edison Fund - Sync Labs.rtf
66. E32 valuation dispute Re\_ availability.pdf
67. E33 Re2 \_ certificate Re\_ spreadsheet.rtf
68. E34 buy back SL\_Profits\_Interest\_Sale.pdf
69. E35 valuation MSN chat 1-26-10 Ferchak.htm
70. E36 harrasment Security violation Re\_ Funding request.rtf
71. E37 ISP date confirmation Fw\_ Re\_ Urgent !!! Web Access Hijack.rtf
72. E38 ISP returned web control but not domain.rtf
73. E39 ISP recovered sync-labs after 27 days . Renewal confirmation.rtf
74. E40 07.29 2010 7 for 20k Domain Name Re\_ further....rtf

75. E41 employee denial req disclosure names.pdf	119. Email Ferchak-35.pdf
76. E43 Domain name.pdf	120. Email Ferchak-36.pdf
77. E101 Mike Valuation Worksheet.xls	121. Email Ferchak-37.pdf
78. E102 NJ LLC statute promised contribution.doc	122. Email Ferchak-38.pdf
79. E103 Florida Contact - Fusion Manufacturing.pdf	123. Email Ferchak-39.pdf
80. E104 signed contract NJCST.pdf	124. Email Ferchak-40.pdf
81. E105 edisonfundguidelines.doc	125. Email Ferchak-41.pdf
82. E106 RutgersLawClinic NDA v2 CRR Michael.pdf	126. Email Ferchak-42.pdf
83. E107 Mike Ferchak Friend updated Valuation Worksheet.xls.pdf	127. Email Ferchak-43.pdf
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173.	Email Ferchak-89.pdf	223.	Email Ferchak-139.pdf
174.	Email Ferchak-90.pdf	224.	Email Ferchak-140.pdf
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1975.	ISP suresupport-62.pdf		
1984.			
1985.	Messenger 1.1.09 michael@fusion-manufacturing.com.htm		
1986.	Messenger 1.2.09 michael@fusion-manufacturing.com.htm		
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2108. Messenger 12.30.08 michael@fusion-manufacturing.com.htm
2109. michael voice recording theft IP.mp3
2110. Purchase synclabs -1.pdf
2111. Purchase synclabs -2.pdf
2112. Purchase synclabs .pdf
2113. Purchase synclabs.com -1.pdf
2114. Purchase synclabs.com .pdf
2115. SKYPE Michael Ferchak talks from 2008 to 2.2010.pdf
2116. SURESUPPORT Archive.zip
2117. synclabs.com Purchase Confirmation and Management Information - KEEP THIS EMAIL.pdf





**PE7**

## **PHOENIX : LABS**

105 Lock St, Suite 211, Newark, NJ, 07103

Phone 201 264 8046

### **FUNDING AGREEMENT**

This **FUNDING AGREEMENT** (the "Agreement") is made and entered into as of 07.02.2009 (the "Effective Date") by and between Michael Ferchak, ( "the Investor"), located at 1251 Buchanan St., Hollywood, FL, 33019 and **PHOENIX LABS LLC** ("the Company"), a New Jersey limited liability company, with its principal place business located at 105 Lock Street, suite 211, Newark, NJ, 07103. The Investor and the Developer may be referred to herein individually as "Party" or "party" and collectively as "Parties" or "parties".

The parties agree that the Investor will provide the \$250,000 matching funds as specified in the terms and conditions of the NJSITC Edison \$500,000 grant for which the Company applied on July 6<sup>th</sup>, 2009. In consideration for his financial contribution the Investor will receive the equivalent share of the Company ownership. The share of the Company will be determine at the time of each of the matching contributions as the parties would agree.

Contributions will be made within 30 days upon reporting by the company of the achievement of the pre-determined milestones as outlined in the proposal.

INVESTOR

PHOENIX LABS LLC



Michael Ferchak

Radulescu Codrut Radu, President

Investment Agreement Michael Ferchak / Phoenix Labs LLC

**PE8**

## 2009 Partnership loss

**NJK-1 Distribution Report**

\* Report summarizes Schedule NJK-1, column A amounts for resident partners, and column B amounts for nonresidents and part year residents. When an amount on the 'Total' line differs from the corresponding amount on the 'Amount shown on Schedule K Equivalent' line, shown on the screen, the difference may be attributable to apportionment or special allocations.

\*\* Indicates part-year or nonresident partner type per NJK-1.

Partner (See comments above)	-1- Partnership inc (loss)	-4- Distrib shr inc (loss)	-7- New Jersey Tax		
Codrut R Radulescu	-74,970	-74,970			
**Michael Ferchak	-301	-301	0		
Total	<u>-75,271</u>	<u>-75,271</u>	<u>0</u>		

## PE 9

## Partnership tax return form 2010

<b>B</b> Principal product or service Research & Development tel <b>C</b> Business code number 541700		<b>Print or type.</b> Number, street, and room or suite number. If a P.O. box, see the instructions. 105 Lock St. Suite 211 City or town State ZIP code Newark NJ 07103-3567		<b>E</b> Date business started 07/31/07 <b>F</b> Total assets (see instrs) \$ 16,127.		
<b>G</b> Check applicable boxes: (1) <input type="checkbox"/> Initial return (2) <input type="checkbox"/> Final return (3) <input type="checkbox"/> Name change (4) <input type="checkbox"/> Address change (5) <input type="checkbox"/> Amended return (6) <input type="checkbox"/> Technical termination — also check (1) or (2)						
<b>H</b> Check accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶						
<b>I</b> Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▶ 2						
<b>J</b> Check if Schedules C and M-3 are attached <input type="checkbox"/>						
<b>Caution.</b> Include <u>only</u> trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.						
<b>I N C O M E</b>	1 a Gross receipts or sales		1 a			
	b Less returns and allowances		1 b		1 c	
	2 Cost of goods sold (Schedule A, line 8)				2	
	3 Gross profit. Subtract line 2 from line 1c				3	
	4 Ordinary income (loss) from other partnerships, estates, and trusts (attach statement)				4	
	5 Net farm profit (loss) (attach Schedule F (Form 1040))				5	
	6 Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)				6	
	7 Other income (loss) (attach statement) * STMT				7	125,856.
8 <b>Total income (loss).</b> Combine lines 3 through 7				8	125,856.	
<b>S H E E T  I N S T R U C T I O N S  F O R  D E D U C T I O N S  L I M I T A T I O N S</b>	9 Salaries and wages (other than to partners) (less employment credits)				9	13,927.
	10 Guaranteed payments to partners				10	
	11 Repairs and maintenance				11	
	12 Bad debts				12	
	13 Rent				13	
	14 Taxes and licenses				14	
	15 Interest				15	
	16 a Depreciation (if required, attach Form 4562)		16 a	2,095.		
	b Less depreciation reported on Schedule A and elsewhere on return		16 b		16 c	2,095.
	17 Depletion (Do not deduct oil and gas depletion.)				17	
	18 Retirement plans, etc				18	
	19 Employee benefit programs				19	
20 Other deductions (attach statement) * STMT				20	126,638.	
21 <b>Total deductions.</b> Add the amounts shown in the far right column for lines 9 through 20				21	142,660.	
22 <b>Ordinary business income (loss).</b> Subtract line 21 from line 8				22	-16,804.	
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member manager) is based on all information of which preparer has any knowledge.						
<b>Sign Here</b>	Signature of general partner or limited liability company member manager Codrut R. Radulescu FDT		Date 10/31/2011		May the IRS discuss this return with the preparer shown below (see instrs)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Print/Type preparer's name FLOYD D. TOWNSEND		Preparer's signature Floyd D. Townsend		Check <input type="checkbox"/> if PTIN self-employed	
<b>Paid Preparer Use Only</b>	Firm's name FLOYD D. TOWNSEND & ASSOCIATES		Firm's EIN 03-0526295			
	Firm's address 211 WARREN ST STE 205 NEWARK NJ 07103-3568		Phone no.			

BAA For Paperwork Reduction Act Notice, see separate instructions.

PTPA0112 01/18/11

Form 1065 (2010)

## **PE 10**

Some of Contingency Lawyers that looked into this case for contingency.

Maxwell S. Kennerly, Esq.  
The Beasley Firm, LLC

Ira L. Kotel, Esq.  
SNR Denton US LLP

James E. Jasaitis  
Sonnenschein Nath & Rosenthal LLP

James Vasquez, Esq.  
Freeth & Clay, LLP

Patrick Rocco  
lawssb.com

Robert J. Levin, Esq.  
Counsel  
Lowenstein Sandler PC

David E. Marder  
Robins, Kaplan, Miller & Ciresi L.L.P.

Ronald J. Wronko, Esq.  
Florham Park, NJ 07932

Ernest D. Buff  
Ernest D. Buff & Associates, LLC



From: Michael Ferchak

Date: Jan 2, 2009

Re: Edison Grant Fund Matching for Phoenix Labs

To Whom It May Concern,

I have allocated \$250,000 in cash funds to be available to Phoenix Labs as part of the fund matching requirement for the Edison Innovation R&D Grant. This amount is immediately available and will be transferred in 3 stages at the request of Codrut Radulescu, president of Pheonix Labs.

Proof of funds is available in the attached account snapshot dated December 31, 2008 from Northern Trust Securities which shows Cash and Cash Equivalents to be in excess of \$250,000.

Sincerely,

Michael Ferchak

A handwritten signature in black ink, appearing to read "Michael Ferchak", with a long horizontal flourish extending to the right.

## PHOENIX : LABS

105 Lock St, Suite 211, Newark, NJ, 07103

Phone 201 264 8046

### FUNDING AGREEMENT

This **FUNDING AGREEMENT** (the "Agreement") is made and entered into as of 07.02.2009 (the "Effective Date") by and between Michael Ferchak, ( "the Investor"), located at 1251 Buchanan St., Hollywood, FL, 33019 and **PHOENIX LABS LLC** ("the Company"), a New Jersey limited liability company, with its principal place business located at 105 Lock Street, suite 211, Newark, NJ, 07103. The Investor and the Developer may be referred to herein individually as "Party" or "party" and collectively as "Parties" or "parties".

The parties agree that the Investor will provide the \$250,000 matching funds as specified in the terms and conditions of the NJSITC Edison \$500,000 grant for which the Company applied on July 6<sup>th</sup>, 2009. In consideration for his financial contribution the Investor will receive the equivalent share of the Company ownership. The share of the Company will be determine at the time of each of the matching contributions as the parties would agree.

Contributions will be made within 30 days upon reporting by the company of the achievement of the pre-determined milestones as outlined in the proposal.

INVESTOR



Michael Ferchak

PHOENIX LABS LLC



Radulescu Codrut Radu, President

Investment Agreement Michael Ferchak / Phoenix Labs LLC



Sync Labs L.L.C.  
105 Lock St,  
Suite 211  
Newark,  
NJ 07103

---

Date:

Investment Transaction Receipt

Between Sync Labs LLC ( Company) located at 105 Locks St, Suite 211, Newark, Nj 07103 and Michael David Ferchak located at 1251 Buchanan St. Hollywood, FL 33019 ( investor).

This is to confirm that the investor transferred \$20,000 ( twenty thousand dollars ) to Company . In exchange the Company transferred 4,000 ( four thousand ) Class A Unit of Profit Interests to investor.

Company

Investor

Radulescu Radu  
CEO

Michael Ferchak



Date:

3.30.2010

Date:

March 30, 2010



**State of New Jersey**

**COMMISSION ON SCIENCE AND  
TECHNOLOGY**

P.O. BOX 832  
TRENTON, NJ 08625-0832

**JON S. CORZINE**  
*Governor*

**PETER R. RECZEK, Ph.D.**  
*Executive Director*

November 10, 2009

Phoenix Labs, LLC  
Codrut Radulescu  
211 Warren Street  
Newark, NJ. 07103

Dear: Codrut Radulescu

I am pleased to inform you that the New Jersey Commission on Science and Technology has awarded you an Edison Innovation R&D Fund grant. Your Edison Innovation R&D Fund award is made in the amount of \$250,000 payable directly to Phoenix Labs, LLC

The Commission on Science and Technology understands that access to capital is a critical need of early stage technology based companies in New Jersey. The Edison Innovation R&D Fund has been designed to provide early-stage financing and commercialization support for New Jersey high-tech companies at a higher risk earlier stage in their development and to promote collaboration between New Jersey technology companies and New Jersey research universities.

Following this letter, you will receive from the Commission contracting information and instructions. The Edison Innovation R&D Fund now includes a supplemental financing for non-project specific costs from the New Jersey Economic Development Authority (NJEDA), such as rent and utilities. The commission will forward your application to the NJEDA for the additional award and the NJEDA will contact you with their contract information.

In the meantime, if you have any questions whatsoever, please do not hesitate to contact my office at (609) 984-1671.

Congratulations on your Edison Innovation R&D Fund Award.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter R. Reczek".

Peter R. Reczek, Ph.D.  
Executive Director

**WORK MADE FOR HIRE**  
**REPRESENTATION/WARRANTY AGREEMENT**

This Work Made For Hire Agreement (hereinafter referred to as "Agreement") is entered into on Jan 1st, 2008 by and between Codrut Radu Radulescu , located at 1007 Sunny Slope Rd, Bridgewater, NJ ( hereinafter referred as the "Owner") and Michael Ferchak located at 1251 Buchanan St. Hollywood, FL 33019 (hereinafter referred to as "you" or "your").

Whereas the Owner is in the business of research and development of methods and systems for high precision timing synchronization implemented in both software ( SW) and hardware (HW).

Whereas the Owner needs administration and organization related to projects and operations.

Whereas the Owners applies for government grants to support the Owner research projects.

Whereas the Owner does market research to assess markets, products, competition and potential partners.

Whereas the Owner is looking for corporate and private investors to finance the Owner operations and research.

Whereas the Owner has extern and intern students working for the Owner as part of their professional education.

Whereas you are a BE graduate in electrical engineering

Whereas you are an expert in companies operations and manufacturing.

Whereas the Owner is the proprietor of Phoenix Labs LLC incorporated in the state of New Jersey.

Both Parties agree that this Agreement when signed by the Owner and you will confirm the following as our mutual understanding and agreement:

You agree to work part time over a 4 years period in consideration for profit interest of the Phoenix Labs LLC ( hereinafter referred as "Company") according to the following rule: If you work more than 150h nominal hours per quarter you will receive 0.125% profit interests (PI) of Phoenix Labs LLC for that quarter. If you work less then 150h per quarter you will receive at the end of that quarter a fraction of said 0.125% equal with the ratio between the actual hours and the 150 nominal hours. For instance if you work 90 hours you will receive 0.075% of profit interests or 0.00075 profit interests. Results that every said hour of work will be compensated by 8.33 parts per million ( ppm ) of the profit interests of Phoenix Labs LLC. Your profit interests do not give you the right to vote in company matters. The profit interests are not transferable to a third party without the written consent of the Owner.

From: Michael Ferchak <michael@sync-labs.com>  
Date: January 27, 2010 11:51:48 AM EST  
To: Radu Radulescu <radu@sync-labs.com>  
Subject: **Re: tech startup valuation**

Wow. you are really selfish. I suppose I should send this letter to Joseph.

### ***PHOENIX : LABS***

105 Lock St, Suite 211, Newark, NJ, 07103

Phone 201 264 8046

To: NJCST  
Date: Jan 27, 2010  
Re: Edison Innovation Grant for Phoenix Labs  
To whom it may concern:

Due to failed negotiations with the owner, I have decided not to invest in Phoenix Labs and therefore my funding will not be available for the fund matching requirement of the Edison Innovation Grant.

I apologize for any inconvenience this causes to the commission.



Michael Ferchak

Investment Agreement Michael Ferchak / Phoenix Labs LLC

Michael Ferchak  
V.P. of Operations

Sync Labs LLC  
EDC NJIT Incubator  
105 Lock St., Suite 211  
Newark, NJ 07103-3567  
[sync-labs.com](http://sync-labs.com)

43. The Sync Labs LLC operating losses for 2009 were more than \$75,000

44. The Sync Labs LLC operating losses for 2010 were more than \$16,800

45. The Sync Labs LLC operating losses for 2011 are estimated to be in the range of \$96,000

To: Codrut Radulescu  
Re: Sync Labs Profits Interests  
Date: June 3, 2010

I currently own 12692 units of profits interest in Sync Labs, LLC. I am offering to sell all of these units to Sync Labs, LLC for a price of \$7 dollars per share. This offer is valid until June 30, 2010.

Sincerely,

Michael Ferchak

A handwritten signature in black ink, appearing to read "Michael Ferchak", with a long horizontal flourish extending to the right.